

EDITOR'S PAGE



“We Have the Best Doctors and the Most Advanced Technology”—Advertising In Medicine

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At the end of each calendar year, an open enrollment period for many health care plans leads to a frenzy of billboard and radio and TV ads. Each ad extols the virtue of their health care plan and is usually accompanied by the picture of one or more robust, smiling individuals who seem to be in perfect health and enjoying life immensely. The implied or sometimes stated claim suggests that the excellence of the care provider is responsible for the astonishingly healthy and satisfied individual(s). Sometimes, the faces of attractive, kindly, board certified physicians are shown in ads. They seem relaxed, friendly and very competent in their starched white coats—the kind of doctor who will take plenty of time to get to know you as a friend and who will never be hurried or rushed during your visit. The implication is that this doctor, or one like him or her, will be your own personal physician. The powerful images of slick medical advertising have been unleashed on the American public.

Physicians have been traditionally uneasy about advertising their services, although the practice has been considered as a form of the First Amendment, which guarantees free speech. To counter the problem of misleading advertising, many organizations have adopted advertising guidelines. The ACC recently adopted the guidelines of the Council of Medical Specialty Societies (CMSS) on physician advertising, which are reproduced below.

Without limitation, advertising which is false, fraudulent, deceptive or misleading occurs when a statement or claim:

1. Contains a misrepresentation of fact or omits a material fact necessary to prevent deception or misrepresentation
2. Contains a picture or facsimile of a person for the purpose of promising relief or recovery unobtainable by the average patient by the methods advertised
3. Contains a testimonial pertaining to the quality or efficacy of medical care or services that does not represent the typical experience of other patients
4. Is intended or is likely to create false or unjustified expectations of favorable results
5. Contains a claim that the physician possesses skills or provides services superior to those of other physicians with similar training, unless such claims can be factually substantiated
6. Takes improper advantage of a person's fears, vanity, anxiety or similar emotions
7. Contains a claim that is likely to deceive or mislead the average member of the audience to whom it is directed
8. Contains a false or misleading prediction or implication that a satisfactory result or a cure will result from performance of professional services
9. States or implies that a physician is a certified specialist unless he/she is certified by a Board recognized by the American Board of Medical Specialties
10. Describes the availability of products or services which are not permitted by law
11. Is likely to attract patients by the use of exaggerated claims
12. Is not identified as a paid advertisement or solicitation unless it is apparent from the context that it is a paid announcement or advertisement
13. Contains a statement of the fees charged for specific professional services but omits to indicate whether additional fees may be incurred for related professional services which may also be required.

Keep these in mind as you are assailed by the increasing advertising in medicine. You'll probably find, like I do, that the guidelines are rarely followed. Buyer beware!

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